# Decision Handed Down In Jordan - Cummings Case

Judge Joseph E. Nelson entered judgement November 26, 1954, in the case of Buys Cummings vs. G. E. Jordan and J. W. Jordan. The action was filed to compel the Jordans to discontinue the use of an irrigation ditch which diverted water from the Provo River across the lands of the plaintiff, Buys Cummings. The ditch was immediately in front of a row of new motel units which were constructed by Mr. Cummings in 1953 dividing the motel units from the cafe. The ditch also stopped the drain fields and septic tank of Mr. Cummings from working. Mr. Cummings also sought money damages in the amount of $20,000 for damage done in the use of the ditch.

The court ruled G. E. Jordan was the owner of the right to maintain the open ditch across the plaintiff's land and it thus denied the plea of Mr. Cummings that Mr. Jordan be enjoined from using the ditch.

The court expressly ruled that Mr. Jordan was under no duty to prevent seepage through the banks of the ditch into the area occupied by the drain fields of Mr. Cummings, but that Mr. Jordan could use the ditch to the extent of his decreed water rights. The court however, held that Mr. Jordan could not fill the ditch so full as to cause it to overflow. It awarded Mr. Cummings judgement for $490 because Mr. Jordan had twice caused the ditch to overflow and flood the basement of Mr. Cummings. Each of the parties was ordered to pay his own costs of court. J. W. Jordan was held to have no interest in the suit and the case was dismissed as to him.